

**§ 510.22 Forwarder and principal; fees.**

(a) *Compensation or fee sharing.* No licensee shall share, directly or indirectly, any compensation or freight forwarding fee with a shipper, consignee, seller, or purchaser, or an agent, affiliate, or employee thereof; nor with any person advancing the purchase price of the property or guaranteeing payment therefor; nor with any person having a beneficial interest in the shipment.

(b) *Withholding information.* No licensee shall withhold any information concerning a forwarding transaction from its principal.

(c) *Due diligence.* Each licensee shall exercise due diligence to ascertain the accuracy of any information it imparts to a principal concerning any forwarding transaction.

(d) *Errors and omissions.* Each licensee shall comply with the laws of the United States and any involved State, Territory, or possession thereof, and shall assure that to the best of its knowledge there exists no error, misrepresentation in, or omission from any export declaration, bill of lading, affidavit, or other document which the licensee executes in connection with a shipment. A licensee who has reason to believe that its principal has not, with respect to a shipment to be handled by such licensee, complied with the laws of the United States or any State, Commonwealth or Territory thereof, or has made any error or misrepresentation in, or omission from, any export declaration, bill of lading, affidavit, or other paper which the principal executes in connection with such shipment, shall advise its principal promptly of the suspected noncompliance, error, misrepresentation or omission, and shall decline to participate in any transaction involving such document until the matter is properly and lawfully resolved.

(e) *Express written authority.* No licensee shall endorse or negotiate any draft, check, or warrant drawn to the order of its principal without the express written authority of such principal.

(f) *Receipt for cargo.* Each receipt issued for cargo by a licensee shall be clearly identified as *Receipt for Cargo*

and be readily distinguishable from a bill of lading.

(g) *Invoices; documents available upon request.* A licensee may charge its principal for services rendered. Upon request of its principal, each licensee shall provide a complete breakout of the components of its charges and a true copy of any underlying document or bill of charges pertaining to the licensee's invoice. The following notice shall appear on each invoice to a principal:

Upon request, we shall provide a detailed breakout of the components of all charges assessed and a true copy of each pertinent document relating to these charges.

(h) *Special contracts.* To the extent that special arrangements or contracts are entered into by a licensee, the licensee shall not deny equal terms to other shippers similarly situated.

(i) *Reduced forwarding fees.* No licensee shall render, or offer to render, any freight forwarding service free of charge or at a reduced fee in consideration of receiving compensation from a common carrier or for any other reason. *Exception:* A licensee may perform freight forwarding services for recognized relief agencies or charitable organizations, which are designated as such in the tariff of the common carrier, free of charge or at reduced fees.

(j) *Accounting to principal.* Each licensee shall account to its principal(s) for overpayments, adjustments of charges, reductions in rates, insurance refunds, insurance monies received for claims, proceeds of c.o.d. shipments, drafts, letters of credit, and any other sums due such principal(s).

**§ 510.23 Forwarder and carrier; compensation.**

(a) *Disclosure of principal.* The identity of the shipper must always be disclosed in the shipper identification box on the bill of lading. The licensee's name may appear with the name of the shipper, but the licensee must be identified as the shipper's agent.

(b) *Certification required for compensation.* A common carrier may pay compensation to a licensee only pursuant to such common carrier's tariff provisions. Where a common carrier's tariff provides for the payment of compensation, such compensation shall be paid

on any shipment forwarded on behalf of others where the licensee has provided a written certification as prescribed in paragraph (c) of this section and the shipper has been disclosed on the bill of lading as provided for in paragraph (a) of this section. The common carrier shall be entitled to rely on such certification unless it knows that the certification is incorrect. The common carrier shall retain such certification for a period of five (5) years.

(c) *Form of certification.* Where a licensee is entitled to compensation, the licensee shall provide the common carrier with a signed certification which indicates that the licensee has performed the required services that entitle it to compensation. The certification shall read as follows:

The undersigned hereby certifies that neither it nor any holding company, subsidiary, affiliate, officer, director, agent or executive of the undersigned has a beneficial interest in this shipment; that it is the holder of valid FMC License No. ———, issued by the Federal Maritime Commission and has performed the following services:

(1) Engaged, booked, secured, reserved, or contracted directly with the carrier or its agent for space aboard a vessel or confirmed the availability of that space; and

(2) Prepared and processed the ocean bill of lading, dock receipt, or other similar document with respect to the shipment.

The required certification may be placed on one copy of the relevant bill of lading, a summary statement from the licensee, the licensee's compensation invoice, or as an endorsement on the carrier's compensation check. Each licensee shall retain evidence in its shipment files that the licensee, in fact, has performed the required services enumerated on the certification.

(d) *Compensation pursuant to tariff provisions.* No licensee, or employee thereof, shall accept compensation from a common carrier which is different than that specifically provided for in the carrier's effective tariff(s) lawfully on file with the Commission. No conference or group of common carriers shall deny in the export commerce of the United States compensation to an ocean freight forwarder or limit that compensation to less than a reasonable amount.

(e) *Compensation; services performed by underlying carrier; exemptions.* No licensee shall charge or collect compensation in the event the underlying common carrier, or its agent, has, at the request of such licensee, performed any of the forwarding services set forth in § 510.2(h) unless such carrier or agent is also a licensee, or unless no other licensee is willing and able to perform such services.

(f) *Duplicative compensation.* A common carrier shall not pay compensation for the services described in § 510.23(c) more than once on the same shipment.

(g) *Licensed non-vessel-operating common carriers; compensation.* (1) A non-vessel-operating common carrier or person related thereto licensed under this part may collect compensation when, and only when, the following certification is made together with the certification required under paragraph (c) of this section:

The undersigned certifies that neither it nor any related person has issued a bill of lading or otherwise undertaken common carrier responsibility as a non-vessel-operating common carrier for the ocean transportation of the shipment covered by this bill of lading.

(2) Whenever a person acts in the capacity of a non-vessel-operating common carrier as to any shipment, such person shall not collect compensation, nor shall any underlying ocean common carrier pay compensation to such person for such shipment.

(h) A freight forwarder may not receive compensation from a common carrier with respect to any shipment in which the forwarder has a beneficial interest or with respect to any shipment in which any holding company, subsidiary, affiliate, officer, director, agent, or executive of such forwarder has a beneficial interest.

[49 FR 36297, Sept. 14, 1984; 49 FR 38544, Oct. 1, 1984; 57 FR 40131, Sept. 2, 1992]

#### § 510.24 Records required to be kept.

Each licensee shall maintain in an orderly and systematic manner, and keep current and correct, all records and books of account in connection with its business of forwarding. These records must be kept in the United